



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,559	08/16/2005	Michael Munz	10191/3716	5280
26646	7590	03/20/2006	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			GIBSON, RANDY W	
		ART UNIT	PAPER NUMBER	
			2841	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/520,559	MUNZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Randy W. Gibson	2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 05 January 2005.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 9-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 9-15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 05 January 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 8/16/05.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Information Disclosure Statement***

1. The information disclosure statement filed August 15, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but at least some of the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Bambauer et al (US # 4,623,029). Bambauer discloses the claimed invention including an expansion unit (30) designed to be elongated under the "influence" of the weight (Col. 2, lines 21-42) and a sensor system (40) that measures the degree of elongation based on transit time of a measuring wave within the expansion unit (Col. 2, lines 5-9 & 51-58). With respect to the limitations of claims 10 & 11, the measuring wave is

disclosed as an ultrasonic pulse. With respect to claim 12, the device disclosed times the transit time of the echo to measure length.

4. Claims 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Herlik (US # 6,354,152). Herlik discloses bolts that are equipped with ultrasonic transducers (Col. 6, lines 7-38). The transit time of the ultrasonic echo is changed as the bolts elongate under stress, and this time measurement is used as an indication of the weight (Col. 5, line 56 to col. 6, line 6).

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Podoloff et al (US # 5,991,676) in view of Herlik (US # 6,354,152). Podoloff et al discloses a weight sensor system that monitors the weight on a vehicle seat by measuring the stress placed on resistive strain gages that are incorporated into washers. The sensing washers replace the ordinary washers that fit around the bolts that are used fasten the seat onto the frame. The strain placed on the washers is used as an indication of weight (Col. 5, line 24 to col. 6, line 48). Podoloff et al disclose the

claimed invention except for the use of ultrasonic strain gages that measure stress by measuring the transit time of mechanical sound waves in a load bearing member.

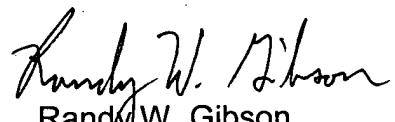
Herlik discloses that it is known in the art to measure strain anywhere in the structure of a vehicle that is held together by bolts, by using bolts that are equipped with ultrasonic transducers in the place of ordinary bolts (Col. 6, lines 7-38). The transit time of the ultrasonic echo is changed as the bolts elongate under stress, and this time measurement is used as an indication of the weight (Col. 5, line 56 to col. 6, line 6). It would have been obvious to the ordinary practitioner to replace the weight sensor system (consisting of ordinary bolts and resistive strain gage sensor washers) of Podoloff et al with the equivalent weight sensor system (consisting of ultrasonic strain gage sensor bolts and ordinary washers) of Herlik, motivated by their art recognized functional equivalence and their art recognized suitability for their intended use. See *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982); *Ryco, Inc. v. Ag-Bag Corp.*, 857 F.2d 1418, 8 USPQ2d 1323 (Fed. Cir. 1988); and, **MPEP** §§ 2144.06 & 2144.07.

### **Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamand Cuneo can be reached on (571) 272-1957. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Randy W. Gibson  
Primary Examiner  
Art Unit 2841